

MR853-744

Serial Number: 10/789,238

Response to Office Action dated 27 June 2007

**REMARKS/ARGUMENTS**

This case has been carefully reviewed and analyzed in view of the Office Action dated 27 June 2007. Responsive to the Office Action, Claim 2 has been amended for further prosecution with the other pending Claims. It is believed that with such amendment of Claim 2, there is a further clarification of the pending Claims' recitations.

In the Office Action, the Examiner rejected Claims 2-5 and 13 under 35 U.S.C. §102(b) as being anticipated by the Hunter, et al. reference. Additionally, the Examiner rejected Claims 2-5 and 13-16 under 35 U.S.C. §103(a) as being unpatentable over the Baltierra reference in view of either one of Hart and Henkel references, further in view of the Volinsky and Parmley references. In setting forth this latter rejection, the Examiner acknowledged that the Baltierra reference fails to disclose various features, but cited the Hart, Henkel, Volinsky and Parmley references for disclosing such, concluding that it would have been obvious to the ordinarily skilled person to have incorporated those features into the Baltierra manicuring tool.

As newly-amended independent Claim 2 now more clearly recites, Applicant's manicuring appliance includes among its combination of features a longitudinally extending elongated member that defines a longitudinal direction. Additionally, the proximal member attached to the longitudinally extending elongated member includes a lip portion at a first end thereof. As the Claim further clarifies, each of the arcuately formed wall member and arcuately formed blade member extend "transverse to said longitudinal direction of said longitudinally elongated member." Furthermore, the blade

member extends throughout the lip portion of the proximal member, allowing the manicuring appliance to effectively cut an entire cuticle of a user's nail.

The full combination of these and other features, now more clearly recited by newly-amended independent Claim 2 is nowhere disclosed by the cited Hunter, et al. reference. As is clearly seen by Figs. 1, 2, 4, and 5 of the Hunter, et al. reference, the blade 10 is not even a blade at all. The element 10 is actually a "liquid applicator 10" of the plunger type. The applicator 10 is made of a plastic material and includes a tip 22 which is longitudinally curved. Admittedly, such forms a sharp edge (labeled element 24), but such can hardly be compared to Applicant's arcuately formed blade which is arcuately formed and extending transverse to the longitudinal direction of the longitudinally extending elongated member. The tip of the cited Hunter, et al. reference (even though made of plastic and used to provide a liquid preparation) extends parallel to the longitudinal direction of its elongated member.

Even beyond this, the Examiner refers to Fig. 4 which shows the "blade alone". However, Fig. 4 shows the entire "liquid applicator 10" including the tip 24. The purpose of removing the liquid applicator 10 is to provide more liquid within the manicuring element of the Hunter, et al. device. Although Applicant's proximal end is removable, as Claim 3 recites, the blade alone is removable from the proximal end itself. Not only does the Hunter, et al. reference fail to disclose or suggest Applicant's claimed appliance, but such has purposes and objectives more related to applying liquid preparation to the nails which is far removed from the purposes and objectives of the subject Patent Application.

The Baltierra reference is deficient in its teachings much in the manner of the Hunter, et al. reference. As the Examiner acknowledged, the Baltierra reference fails to disclose a number of features as claimed. Even beyond this, the Baltierra reference fails to disclose the blade member extending throughout the lip portion and transverse to a longitudinal direction of the elongated member. As is clearly seen by Figs. 7 and 8, the blade member of the Baltierra reference is parallel to the longitudinal direction of its elongated member. Also, the reference fails to disclose or suggest the blade member being “removeably displaceable” as recited in Claim 3.

Given the deficiencies of the Baltierra reference, the secondarily cited Hart, Henkel, Volinsky and Parmley references are found to be quite ineffectual to the present patentability analysis. Each of these references were cited for disclosing isolated features, but fail to remedy the deficiencies of the Baltierra reference.

It is respectfully submitted, therefore, that the Hunter, et al., Baltierra, Hart, Henkel, Volinsky, and Parmley references fail to disclose the unique combination of elements now more clearly recited by Applicant’s pending Claims for the purposes and objectives disclosed in the subject Patent Application. As these references fail to disclose the unique combination of elements now more clearly recited, such cannot anticipate or make obvious the claimed invention.

Additionally, Claims 3-5 and 13-16 are ultimately dependent upon newly-amended independent Claim 2 and are at least patentably distinct for the same reasons as independent Claim 2.

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It is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

No fees are believed to be due with this Amendment. If there are any charges associated with this filing, the Honorable Commissioner for Patents is hereby authorized to charge Deposit Account #18-2011 for such charges.

Respectfully submitted,  
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